



02 DEC 2005

Drummond & Duckworth
5000 Birch Street
Suite 440 East Tower
Newport Beach, CA 92660

In re Application of :
McCRINK, Edward J. et al. :
Application No.: 10/519,910 : DECISION ON
PCT No.: PCT/US02/20888 :
Int. Filing Date: 29 June 2002 : PETITION
Priority Date: 29 June 2001 :
Attorney Docket No.: 816-P-2-USA : UNDER 37 CFR 1.137(b)
For: SEAM WELDED AIR HARDENABLE :
STEEL TUBING :

This is a decision on applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (USPTO) on 03 November 2005.

BACKGROUND

On 29 June 2002, applicants filed international application PCT/US02/20888, which claimed a priority date of 29 June 2001. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 December 2003.

On 30 December 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 May 2005, the USPTO mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration was required.

On 10 June 2005, the Office mailed Communication and Notice of Abandonment, indicating that the application went abandoned for failure to timely pay the basic national fee. The Communication vacated the Notification of Missing Requirements mailed 06 May 2005.

On 12 August 2005, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely pay the basic national fee.

On 17 October 2005, the Office mailed Withdrawal of Previously Sent Notice. The Notice did not indicate which previously sent notice was being withdrawn.

On 03 November 2005, applicants submitted a petition to revive an unintentionally abandoned international application.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (1), (2), (3) and (4) have been satisfied.

However, the declaration does not comply with 37 CFR 1.497(a)-(b). It does not provide the required information for the inventors and is not executed by the inventors. Namely, it does not list Davor Jack Raos and his citizenship nor is it executed by him. If Mr. Raos refuses to sign the declaration after presentation with a complete copy of the application papers, applicants may file a petition under 37 CFR 1.47.

As the Notification of Missing Requirements was vacated and the application was abandoned, an extension of time fee was not required. The extension fee will be refunded to deposit account no. 50-1908, as authorized.

The surcharge for supplying the oath or declaration later than thirty months from the priority date will be charged to deposit account no. 50-1908, as authorized.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.



Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

Facsimile: 571-273-0459